

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA, <i>Plaintiff-Appellee,</i>  v.  BRYAN JAMES EPIS, <i>Defendant-Appellant.</i>	No. 02-10523  D.C. No. CR-97-00381-FCD  ORDER OF REMAND
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Appeal from the United States District Court  
for the Eastern District of California  
Frank C. Damrell, Jr., District Judge, Presiding

Argued and Submitted  
June 16, 2004—San Francisco, California

Filed July 12, 2004

Before: Donald P. Lay,\* Michael Daly Hawkins, and  
Jay S. Bybee, Circuit Judges.

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**COUNSEL**

Brenda Grantland, Mill Valley, California, for the defendant-appellant.

Samuel Wong, Assistant United States Attorney, Sacramento, California, for the plaintiff-appellee.

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\*The Honorable Donald P. Lay, Senior United States Circuit Judge for the Eighth Circuit, sitting by designation.

**ORDER**

This cause came on for hearing before the court on June 16, 2004. The Supreme Court of the United States has now granted certiorari in *Raich v. Ashcroft*, 352 F.3d 1222 (9th Cir. 2003), *cert. granted* (U.S. June 28, 2004) (No. 03-1454), which is a related case dealing with the growing and use of marijuana for medicinal purposes.

This court now remands this case to the district court for reconsideration of the judgment following the decision by the Supreme Court in *Raich*. If, after considering any application of *Raich* to this case, the district court determines that Epis's conviction should remain in tact, the district court should then proceed to re-sentence Epis in a manner consistent with the Supreme Court's decision in *Blakely v. Washington*, 542 U.S. \_\_\_\_ (2004) 2004 WL 1402697 (June 24, 2004). The panel of this court retains jurisdiction pending reconsideration by the district court.

IT IS SO ORDERED.



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